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Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)			
Office Action Summary		09/900,674	NYHAN ET AL.			
		Examiner	Art Unit			
		Beth Van Doren	3623			
	The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply					
A SH WHIC - Exter after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING DATE of time may be available under the provisions of 37 CFR 1.1. SIX (6) MONTHS from the mailing date of this communication. Period for reply is specified above, the maximum statutory period were to reply within the set or extended period for reply will, by statute reply received by the Office later than three months after the mailing and patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).			
Status						
2a)⊠	Responsive to communication(s) filed on <u>01 Formal</u> This action is <b>FINAL</b> . 2b) This Since this application is in condition for allower closed in accordance with the practice under E	action is non-final.				
Dienoeiti	on of Claims					
5)□ 6)⊠ 7)□ 8)□ <b>Applicat</b> i 9)□ 10)□	Claim(s) 1-28 is/are pending in the application.  4a) Of the above claim(s) is/are withdraw Claim(s) is/are allowed.  Claim(s) 1-28 is/are rejected.  Claim(s) is/are objected to.  Claim(s) are subject to restriction and/o  con Papers  The specification is objected to by the Examine The drawing(s) filed on is/are: a) accomplicant may not request that any objection to the Replacement drawing sheet(s) including the correct The oath or declaration is objected to by the Examine	wn from consideration.  r election requirement.  r.  epted or b) objected to by the I drawing(s) be held in abeyance. Section is required if the drawing(s) is objected.	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).			
Priority (	ınder 35 U.S.C. § 119					
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>						
2)	t(s) e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) r No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:				

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#### **DETAILED ACTION**

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1. The following is a final office action in response to communications received 02/01/06. Claims 1-13, 15, 17-18, 20-24, and 26-27 have been amended. Claims 1-28 are pending.

#### Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 3. Claims 1-7, 10-11, and 13-21 are rejected under 35 U.S.C. 102(e) as being anticipated by de Ment (U.S. 6,728,755).

As per claim 1, de Ment teaches a method for conducting an on-line survey in association with presentation of an on-line advertisement by a browser client, the method comprising:

receiving, by an ad server, a request for a block of data comprising computer-readable instructions for displaying the on-line advertisement on the browser client (See figures 2A, 2B, 3B, column 3, lines 10-35, column 4, lines 35-50, wherein a request is received from the computer for the display of an online advertisement of a survey in a pop-up window);

selectively presenting, in response to the receiving step, an on-line survey solicitation via the browser client (See column 4, line 40-column 5, line 15, wherein the on-line survey is selectively presented), the selectively presenting step comprising performing, in any order, the sub-steps of:

accessing information indicative of a previous presentation by the browser client of the on-line survey solicitation (See figures 2A, 2B, 3B, column 3, lines 25-35, column 4, lines 40-63, wherein the system accesses the user's cookies to determine if the user has been previously presented the survey solicitations), and

adding, by the ad server to the requested block of data, further computer-readable medium instructions that facilitate invoking decision-making steps for determining whether to present the on-line solicitation via the browser client (See figures 2A, 3B, column 2, lines 1-15 and 47-60, column 3, lines 25-40, column 5, lines 35-60, wherein the instructions are invoked so that the user is solicited to take the survey).

As per claim 2, de Ment discloses wherein the adding step is performed at least partially based upon the accessing step (See figures 2A, 3B, column 2, lines 1-15 and 47-60, column 3, lines 25-40, column 5, lines 35-60, wherein the instructions are invoked, after the checking, so that the user is solicited to take the survey. See also figure 2B and column 3, lines 25-35, column 4, lines 40-63).

As per claim 3, de Ment discloses wherein the accessing step comprises: receiving cookie data from the browser client indicative of a previous presentation of the on-line survey solicitation (See figure 3B, column 3, lines 25-35, column 4, lines 40-63, wherein cookie data is requested and analyzed to find any previous association).

As per claim 4, de Ment teaches further comprising analyzing the received cookie data to determine an elapsed time since the previous presentation of the on-line survey solicitation; and comparing the elapsed time with a time parameter, wherein the adding step is performed if the elapsed time exceeds a time period corresponding to the time parameter (See figure 3B, column

3, lines 25-35, column 4, lines 40-63, wherein cookie data is requested and analyzed to see timing (i.e. has the user taken the survey within the last six months)).

As per claim 5, de Ment sending the block of data including the added computer readable instructions to the browser client over a computer network (See figure 1, column 1, line 65-column 2, line 15 and lines 45-65, which discloses a computer network utilized).

As per claim 6, de Ment discloses presenting the on-line survey solicitation thereby soliciting the user to take the on-line survey, generating, in association with the presenting step, cookie data to indicate that the online survey solicitation was presented by the browser client, and sending the generated cookie data over a computer network to the browser client (See column 4, lines 30-column 5, line 15, which discloses cookie data and cookie data indicating that the solicitation was shown to the user).

As per claim 7, de Ment discloses executing the added computer-readable instructions to perform steps of: referencing a frequency parameter that influences the frequency of presenting the on-line survey solicitations and determining whether or not to present the on-line survey via the browser client based, in part, on the frequency parameter (See figure 3B and column 4, line 45-column 5, line 26, which discusses frequency of presenting the solicitation).

As per claim 10, de Ment teaches executing the added computer-readable instructions to perform steps of: generating a random number; determining whether the random number falls within a set of numbers that correspond to a the frequency with which the on-line survey solicitation is presented via browser clients; and presenting the online survey solicitation based on the determining step (See figures 2A-2B, column 4, line 63-column 5, line 26, which

discloses a random number generated and determining, based on the number, whether to display the solicitation to the user).

As per claim 11, de Ment teaches preseting the on-line survey solicitation as a pop-up window and in response to activation of a link within the pop-up window, sending a web page to the browser client, the web page comprising questions regarding a product or service advertised in the on-line advertisement (See column 2, lines 1-15 and 45-65, column 3, line 44-column 4, lines 15, column 5, lines 35-60, and figure 3B, wherein a pop-up window is displayed. The user clicks through to a survey concerning a service of the webpage).

As per claim 13, de Ment teaches a method for soliciting a user of a computer to take an on-line survey, the computer being linked to a computer network and running a browser program, the method comprising:

receiving, by a server, a request issued by the browser for one or more files comprising an on-line advertisement (See figures 2A, 2B, 3B, column 3, lines 10-35, column 4, lines 35-50, wherein a request is received from the client for the display of an online advertisement of a survey a pop-up window);

accessing, in response to the receiving step, cookie data for the browser regarding previous presentation by the browser of an on-line survey solicitation (See figures 2A, 2B, 3B, column 3, lines 25-35, column 4, lines 40-63, wherein the system determines if the user has been previously solicited via the user's cookies);

selectively modifying, based on the cookie data, the one or more requested files so that at least one of the files includes a reference to computer-readable instructions for deciding whether

or not to present the on-line survey solicitation via the browser (See figures 2A, 3B, column 2, lines 1-15 and 47-60, column 3, lines 25-40, column 5, lines 35-60); and

sending the one or more requested files to the browser over the computer network (See figures 2A, 3B, column 2, lines 1-15 and 47-60, column 3, lines 25-40, column 5, lines 35-60, wherein the files are sent over the network).

As per claim 15, de Ment teaches wherein the one or more requested files comprise computer-readable instructions for displaying the on-line advertisement, and wherein the selective modifying step further comprises inserting script readable by the browser into the one or more files, the script including instructions for calling a routine that decides whether or not to solicit the user to take the on-line survey based on a frequency parameter, the frequency parameter being indicative of a probability that, in response to the selectively modifying step, the online survey solicitation will be submitted for presentation by the browser (See figures 2A and 2B, column 2, lines 1-15 and 45-66, column 3, lines 10-35, column 4, lines 40-column 5, line 20, wherein a routine helps determine whether or not to solicit the user).

Claims 14 and 16 recite equivalent limitations to claim 2 and 11, respectively, and are therefore rejected using the same art and rationale applied above.

As per claim 17, de Ment teaches a system for conducting an on-line survey, the system comprising:

a client computer for interacting with a user (See figure 1 and column 1, line 65-column 2, line 20, which discloses a client computer);

a web server in communication with the client computer (See figure 1 and column 1, line 65-column 2, line 20, which discloses a web server);

a survey logic server in communication with the client computer (See figure 1 and column 1, line 65-column 2, line 20 and lines 45-65, which disclose a survey logic server); and computer-readable instructions for:

requesting a web page to be sent from the web server to the client computer, the web page including a reference to an on-line advertisement (See figures 1 and 2, column 1, line 65-column 2, line 20 and lines 25-45, which disclose requesting a webpage, such a search tool);

requesting the on-line advertisement for presentation on the client computer (See figures 2A, 2B, 3B, column 3, lines 10-35, column 4, lines 35-50, wherein a request for an online advertisement is received, the online advertisement to entice the user to take the survey); and

sending an on-line solicitation associated with the on-line advertisement from the survey logic server to the client computer based at least in part on a stored value on a client computer indicative of a previous presentation of the on-line survey solicitation on the client computer (See figure 2B, column 2, lines 1-15 and 47-62, column 4, lines 40-62, wherein a decision is made as to whether or not to send the survey based on when the client computer last interacted with the survey).

As per claim 18, de Ment teaches wherein the sending step comprises analyzing cookie data of the client computer indicative of how recently the on-line survey solicitation was previously executed upon the client computer (See figure 2B, column 2, lines 1-15 and 47-62, column 4, lines 40-62, wherein cookies are analyzed).

As per claim 19, de Ment wherein the survey logic server is in communication with the client computer by way of the web server (See figure 1 and column 1, line 65-column 2, line 20 and lines 45-65, which disclose the system).

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As per claim 20, de Ment teaches wherein the sending step comprises:

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based on the cookie data, attaching script to the on-line advertisement, the script being executable by the client computer to call a routine that compares a random number to a set of values based on a frequency parameter to determine whether to send the on-line survey solicitation to the client computer; and further comprising computer executable instructions for sending the on-line advertisement and the script to the client computer (See column 1, line 65-column 2, line 20 and lines 45-65, which disclose a survey logic server and scripts attached. See also figures 2B and 3B and column 4, line 60-column 5, line 27 and lines 35-55, which discusses comparing a random number and looking at frequency values associated with the display of the pop-up advertisement).

As per claim 21, de Ment discloses wherein the sending step comprises based on the cookie data, attaching script to the on-line advertisement, the script being executable by the client computer to call a routine at the survey logic computer that compares a random number to a set of values based on a frequency parameter to determined whether to send the on-line survey solicitation to the client computer (See column 1, line 65-column 2, line 20 and lines 45-65, which disclose a survey logic server and scripts attached. See also figures 2B and 3B and column 4, line 45-column 5, line 27 and lines 35-55, which discusses considering a random number and timing).

## Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 8-9 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Ment (U.S. 6,728,755) in view of Hamlin et al. (U.S. 6,477,504).

As per claims 8 and 9, de Ment teaches wherein the on-line survey solicitation is presented and wherein the frequency parameter has a value that is at least partially a function of an amount of time, the method further comprising calculating the value of the frequency parameter according to an algorithm that incorporates the amount of time (See figure 2B, column 4, lines 40-column 5, line 20). de Ment teaches wherein the calculating using an algorithm or by referencing a look-up table (See figure 2B, column 4, lines 40-62, wherein the value is calculated using an established computational procedure. See column 5, lines 1-22, wherein a reference table is used to determine when to display the survey).

However, de Ment does not specifically disclose that the on-line survey is presented as part of a campaign or calculating how much time is remaining in the campaign.

Hamlin et al. discloses a marketing campaign that utilizes surveys and the system calculating frequency of the survey based on calculating how much time is remaining in the campaign (See column 6, lines 40-65, column 9, line 54-column 10, line 5, column 12, lines 45-55, column 13, lines 18-36, wherein a campaign is defined with on-line surveys and the survey is displayed based on number and duration considerations).

Both Hamlin et al. and de Ment disclose systems for soliciting a user to take an on-line survey and utilizing cookies and timeframe values to determine whether or not to serve a survey to a user. De Ment discloses utilizing on-line surveys in order to characterize users and gain knowledge from these users. Hamlin et al. also discloses utilizing on-line surveys in order to

gain knowledge concerning the users that take the survey and discloses specifically a defined campaign for gaining this knowledge. It would have been obvious to one of ordinary skill in the art at the time of the invention to conduct an on-line survey as part of a campaign (i.e. an operation pursued to accomplish a purpose), the campaign having a specific time period, in order to more efficiently gather information from users of the system by defining the goals and objectives of the data to be collected.

As per claim 22, de Ment teaches an on-line survey solicitation is presented and wherein the value of the frequency parameter is at least partially a function of elapsed time (See figure 2B, column 4, lines 40-62). However, de Ment does not specifically disclose that the on-line survey is presented as part of a campaign or how much elapsed time there is in the campaign.

Hamlin et al. discloses a marketing campaign that utilizes surveys and the system calculating frequency of the survey based on calculating how much time has elapsed in the campaign (See column 6, lines 40-65, column 9, line 54-column 10, line 5, column 12, lines 45-55, column 13, lines 18-36, wherein a campaign is defined with on-line surveys and the survey is displayed based on number and duration considerations).

Both Hamlin et al. and de Ment disclose systems for soliciting a user to take an on-line survey and utilizing cookies and timeframe values to determine whether or not to serve a survey to a user. De Ment discloses utilizing on-line surveys in order to characterize users and gain knowledge from these users. Hamlin et al. also discloses utilizing on-line surveys in order to gain knowledge concerning the users that take the survey and discloses specifically a defined campaign for gaining this knowledge. It would have been obvious to one of ordinary skill in the art at the time of the invention to conduct an on-line survey as part of a campaign (i.e. an

operation pursued to accomplish a purpose), the campaign having a specific time period, in order to more efficiently gather information from users of the system by defining the goals and objectives of the data to be collected.

As per claim 23, de Ment teaches wherein the frequency parameter is performed according to an algorithm (See figure 2B, column 4, lines 40-62, wherein the value is calculated using an established computational procedure).

As per claim 24, de Ment teaches wherein the frequency parameter is determined by referencing a look-up table (See column 5, lines 1-22, wherein a reference table is used to determine when to display the survey).

6. Claims 12 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Ment (U.S. 6,728,755).

As per claim 12, de Ment disclose presenting the on-line survey solicitation as a pop-up window and in response to the activation of a link within the pop-up window, sending a web page to the browser client comprising questions regarding a product or service (See column 2, lines 1-15 and 45-65, column 3, line 44-column 4, lines 15, column 5, lines 35-60, and figure 3B, wherein a pop-up window is displayed. The user clicks through to a survey concerning a service of the webpage).

However, de Ment does not expressly disclose that the pop-up concerns a product or service that is not advertised in the on-line advertisement.

De Ment discloses that the user is provided an advertisement for a survey via a popwindow based on the user's use of a search tool. The questions following this original invitation obvious to one of ordinary skill in the art at the time of the invention to include a general nature of the questions in the original pop-up in order to increase the convenience of the survey by allowing the respondent to know upfront the types of questions he/she will encounter. See column 3, line 45-column 4, line 25.

As per claims 25-27, De Ment discloses:

- i. as per claim 25, a server for maintaining data for displaying the on-line advertisement (See figures 1, 3B, column 1, line 65-column 2, line 20 and lines 45-65, column 5, lines 35-60, which disclose a server that present the user with advertisement for the survey).
- ii. As per claim 26, the server adds first computer-readable instructions for invoking a decision routine to the advertisement data when consideration is to be given to sending the online survey solicitation to the computer (See figures 2A, 2B, 3B, column 3, lines 10-35, column 4, lines 35-50, wherein a request is received from the computer at the server for the display of an online advertisement of a survey via a pop-up window).
- iii. As per claim 27, the survey logic server provides the first computer readable instructions (See figures 1, 3B, column 1, line 65-column 2, line 20 and lines 45-65, column 5, lines 35-60, wherein the survey server provides the implementation instructions).

However, De Ment does not expressly disclose both a survey server and an ad server.

De Ment discloses a web-based system that contains a server and a survey server. The survey server handles the providing of both the advertisement and the survey. It would have been obvious to one of ordinary skill in the art at the time of the invention to include both an ad

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server and a server in order to increase the efficiency of the system by duplicating the parts for redundancy and speed. Duplication of parts is per se obvious. See column 2.

## Response to Arguments

7. Applicant's arguments with regards to de Ment (U.S. 6,728,755) and de Ment (U.S. 6,728,755) in view of Hamlin et al. (U.S. 6,477,504) have been fully considered, but they are not persuasive. In the remarks, Applicant argues that de Ment does not teach or suggest (1) conducting an on-line survey with presentation of an on-line advertisement, (2) de Ment does not determine whether or not the user has been previously solicited to take a survey or cookie data indicative of a solicitation, (3) inserting script into a downloaded advertisement (claim 15), or that de Ment in view of Hamlin et al. does not teach or suggest (4) a frequency parameter value being a function of time remaining/elapsed in a campaign.

In response to argument (1), Examiner points out that the claims recite language such as "conducting an on-line survey in association with presentation of an on-line advertisement". The claims do not specifically recite what the advertisement is advertising (i.e. is it advertising the survey, a product, etc.). And advertisement is something that performs the act of announcing, making something known, and calling attention to. Based on the claim language, it appears that the advertisement is calling a user's attention to the survey (i.e. the advertisement is making the user aware of the survey). The survey is then conducted based on this advertisement. de Ment does teach and suggest this advertising of a survey through the use of a pop-up ad that makes the user aware of the survey and causes the user to access the survey. See figure 2A, 3B, column 3, lines 10-35, column 4, lines 35-50, column 5, lines 1-15.

In response to argument (2), Examiner respectfully disagrees. de Ment discloses s decision step where the routine determines whether or not the user had seen the particular survey within the last six months as shown by checking a cookie of the user corresponding to the pop-up survey routine. If the cookie is stored on the user's system, the system checks to see when the user received and was presented the survey. Therefore, this cookie data is stored upon receipt and presentation of the pop-up routine, and thus the user may have elected to not take the survey by choosing the no button. Therefore, de Ment does determine whether or not the user has been previously solicited to take a survey and cookie data indicative of a solicitation. See at least figure 3B, column 4, lines 45-65.

In response to argument (3), Examiner respectfully disagrees. de Ment discloses a procedure in a computer programming language used for simple, repeated actions such as calling the function for displaying the pop-up ad for the survey. The browser reads this procedure and displays it on the browser. See figures 2A and 2B, column 2, lines 1-15 and 45-66, column 3, lines 10-35, column 4, lines 40-column 5, line 20.

In response to argument (4), Examiner respectfully disagrees. Examiner reminds the Applicant that this feature was rejected under 35 USC 103. de Ment teaches an on-line survey solicitation is presented and wherein the value of the frequency parameter is at least partially a function of elapsed time, as shown in at least figure 2B, column 4, lines 40-62, which discusses the time frame within which the system will not solicit the user due to frequency (i.e. 6 months). de Ment further discloses a kill switch that controls the time periods that the survey is presented (column 4, lines 30-45) as well as utilizing on-line surveys in order to characterize users and gain

knowledge from these users de Ment, however, does not specifically disclose that the on-line survey is presented as part of a campaign or how much elapsed time there is in the campaign.

Hamlin et al. discloses a marketing campaign that utilizes surveys, the survey being displayed based on number and duration considerations. The system calculates frequency of the survey based on calculating how much time has elapsed in the campaign. See column 6, lines 40-65, column 9, line 54-column 10, line 5, column 12, lines 45-55, column 13, lines 18-36. Therefore, de Ment in view of Hamlin et al. does teach and suggest this feature and the art is combinable for the reasons asserted above.

#### Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Smith et al. (U.S. 6,993,495) discloses internet-based surveying techniques.

Liu et al. (U.S. 6,839,680) discloses using cookie data to track activity of a user on the Internet and internet-based surveys.

Lippiner et al. (U.S. 2002/0147776) discloses an internet based window wherein the user is solicited to take the online survey using a pop-up window and a frequency of the user taking the survey is also considered.

Kupersmit (U.S. 2002/0016731) teaches pop-up invitations to solicit a user to take an online survey.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, sontact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bvd

April 14, 2006

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600